

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON

RANDY COOPER,

Plaintiff,

v.

Case No. 2:09-cv-00168

JIM RUBENSTEIN, Commissioner,
West Virginia Division of Corrections,
DAVID BALLARD, Warden, Mount Olive
Correctional Complex, and
MAJOR ROBERT RHODES, Correctional Officer,
Mount Olive Correctional Complex,

Defendant.

MEMORANDUM OPINION AND ORDER

Because of numerous frivolous filings, Plaintiff has previously been enjoined by this United States District Court from filing any additional actions without first paying the required filing fee in full, or seeking and obtaining leave from the District Court to file in forma pauperis, upon a finding that Plaintiff is under imminent danger of serious physical injury.

On March 10, 2009, upon review of the proposed Complaint submitted by Plaintiff, the undersigned found that Plaintiff had not made a sufficient showing that he is under imminent danger of serious physical harm, and denied Plaintiff's Motion for Leave to Proceed in forma pauperis (docket # 3) and his Application to Proceed Without Prepayment of Fees (# 1). Plaintiff was further ordered to pay the \$350 filing fee, in full, within 30 days of the entry of that Order, and was notified that the failure to pay the

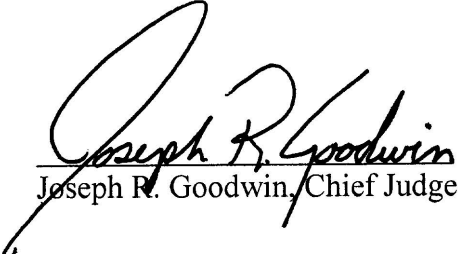
filing fee in full would result in the dismissal of the Complaint.

Plaintiff filed another letter-form Motion to Proceed in forma pauperis on April 8, 2009 (# 7). Plaintiff also filed a Motion for Subpoena for Prison Surveillance Tapes (# 5) on March 3, 2009.

Plaintiff failed to pay the \$350 filing fee by April 10, 2009. Because Plaintiff has not made a sufficient showing that he is under imminent danger of serious physical injury in order to proceed in forma pauperis, and because he did not pay the filing fee in full by April 10, 2009, as ordered, it is here by **ORDERED** that Plaintiff's Complaint (# 2) be dismissed with prejudice and this case be dismissed and stricken from the docket. It is further **ORDERED** that Plaintiff's letter-form Motion to Proceed in forma pauperis (# 7) and Plaintiff's Motion for Subpoena for Prison Surveillance Tapes (# 5) be **DENIED**.

The Clerk is directed to mail a copy of this Memorandum Opinion and Order to Plaintiff.

ENTER: April 15, 2009


Joseph R. Goodwin, Chief Judge